

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

v. :

JULIO ALFREDO ROSARIO :
GONZALEZ, :
Defendant. :

-----x
ORDER

23 CR 186 (VB)

1/26/24

Pending before the Court is defendant's motion for a reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) and U.S.S.G. § 1B1.10, based on Amendment 821 to the Sentencing Guidelines. Amendment 821 went into effect on November 1, 2023, and was made retroactive by the U.S. Sentencing Commission.

For the following reasons, the motion is GRANTED.

At sentencing on July 20, 2023, the applicable Guidelines range was 70-87 months' imprisonment, based on a final offense level of 27 and a Criminal History Category of I. The Court imposed a sentence of 60 months' imprisonment. The Court did not impose a term of supervised release because defendant was highly likely to be deported upon the completion of his prison sentence.

Amendment 821 created a new Section 4C1.1, which provides for a two-level decrease in offense level for defendants with zero criminal history points who meet specified eligibility criteria. Defendant has zero criminal history points and otherwise meets the eligibility criteria in Section 4C1.1. Therefore, defendant's amended offense level is 25, at Criminal History Category I, such that his amended sentencing range is 57-71 months' imprisonment.

By letter dated January 26, 2024, the government agrees that the amended sentencing range is 57-71 months, and asks the Court to grant defendant's motion. (Doc. #112).

Having considered the sentencing factors set forth in 18 U.S.C. § 3553(a), the Court concludes that a reduction of the term of imprisonment to the low end of the amended range is fair and appropriate. Although the offense was serious, the several mitigating factors that warranted a downward variance to 60 months at the time of sentencing still apply. Moreover, during the period of his incarceration, defendant has received no disciplinary sanctions and has successfully participated in an education program and a work assignment. Finally, any public safety concerns posed by defendant's early release are adequately mitigated by the fact that defendant is highly likely to be deported upon the completion of his prison sentence.

Accordingly, defendant Julio Alfredo Rosario Gonzalez is resentenced to 57 months' imprisonment. All other components of the sentence remain as originally imposed on July 20, 2023.

In light of the foregoing, defense counsel shall not file a response to the government's letter.

The effective date of this Order is February 1, 2024.

Dated: January 26, 2024
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge